

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

ELMER LEE, )  
                  )  
Plaintiffs,     )  
                  )  
                  v.     ) CIVIL ACTION NO.: \_\_\_\_\_  
                  )  
UNITED STATES of AMERICA, )  
                  )  
Defendant.      )

**COMPLAINT**

COME NOW, Plaintiff, Elmer Lee, by and through undersigned counsel, and submit this Complaint, alleging as follows:

1. This action is based on the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.* (the “FTCA”). The FTCA authorizes suits against the United States for damages under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

**THE PARTIES**

1. Plaintiff Elmer Lee is over the age of nineteen years of age, resides in Wetumpka, Elmore County, Alabama.

2. Defendant United States, for all purposes relevant hereto, acted by and through the United States Army, and within the Middle District of Alabama.

**JURISDICTION & VENUE**

3. The Court has jurisdiction over the claims and parties in this action. This Court has jurisdiction over violations of the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680 pursuant to 28 U.S.C. § 1346(b) and 28 U.S.C. § 1331. Jurisdiction of this Court over Defendant United States is invoked pursuant to 28 U.S.C. § 2671, *et seq.*

4. Venue is proper pursuant to 28 U.S.C. § 1391 in that a substantial part of the events or omissions giving rise to the claim occurred in the Middle District of Alabama. The Plaintiff resides in Elmore County, Alabama and the acts and omissions herein complained of, as well as the injuries, occurred within the geographical confines of the Middle District of Alabama and this Division.

5. Plaintiffs satisfied the conditions precedent to bringing a lawsuit against the United States under the FTCA, as set forth in 28 U.S.C. §§ 2675 and 2401. Plaintiffs' perfected administrative claim was received by the U.S. via the Department of the Army on or about December 20, 2020. The Department of the Army assumed lead agency responsibility for responding to the Plaintiffs' administrative claim on behalf of the United States. administrative action letter

Plaintiffs have exhausted their administrative remedies as required under the FTCA, 28 U.S.C. § 2675.

**Count One**

**Negligence/Wantonness**

6. On or about November 3, 2020, the Defendant, the United States of America's vehicle, a 2015 Dodge Grand Caravan, VIN#2C4RDGB6GR106144, was being driven by Tykee Matrail McKethern. At or near the intersection of United States Highway 231 and South Main Street in Wetumpka, Elmore County, Alabama, McKethern was in the left turn lane to turn left onto South Main Street. McKethern then pulled out of the turn lane to re-enter US Highway 231 and caused a collision with Carrie Baker who was traveling north on US Highway 231. Ms. Baker was then hit by Plaintiff, Elmer Lee, in the rear, and McKethern then hit the vehicle being driven by Morgan Parker. These events and this collision occurred as a direct and proximate consequence of the Defendant's negligence and wantonness, when it failed to yield to oncoming traffic.

7. As a direct and proximate consequence of the Defendants' negligence and/or wantonness, the Plaintiff suffered the following injuries and damages:

The Plaintiff, Elmer Lee, suffered injuries to his right subtalar toclonavicular fracture to his right foot. He experienced swelling, bruising, abrasions, to his legs and was in a boot cast for several months. was bruised and contused about the various and separate parts of his body; Plaintiff incurred and in the future will incur great sums of medical expenses and bills to heal and cure his injuries; Plaintiff was caused to suffer severe emotional distress and mental anguish; Plaintiff was permanently injured. Plaintiff suffered the total loss of his Grand Marquis.

### **DAMAGES**

8. Defendant's wrongful conduct directly and proximately caused Plaintiffs' general and special damages in an amount to be established at trial. As a proximate result, Plaintiff Elmer Lee was severely and permanently injured.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Elmer Lee request that judgment be entered against Defendant as follows:

- a. Awarding Plaintiffs damages in an amount to be established at the time of trial;

- b. Awarding Plaintiffs actual and reasonable attorney's fees, litigation expenses, and costs incurred in this action to the extent provided by any applicable law; and
- c. Awarding Plaintiffs any additional or further relief which the court finds appropriate, equitable or just.

**PLAINTIFF DEMANDS TRIAL BY JURY**

Date: July 11, 2022

*/s/ T. Geoffrey Dillard*

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**Defendant's Address for Service of Complaint & Summons:**

UNITED STATES OF AMERICA  
DEPARTMENT OF THE ARMY  
OFFICE OF THE STAFF JUDGE ADVOCATE  
BUILDING 3439 HONEST JOHN ROAD  
REDSTONE ARSENAL, ALABAMA 35898-5120